

ILLINOIS DEPARTMENT OF REVENUE
J. Thomas Johnson, Director
1500 South Ninth Street
Springfield, Illinois 62708

INFORMATIONAL BULLETIN FY82-5

TO: State of Illinois Withholding Agents

RE: Emergency Amendment to Income Tax Regulation 702-2 (Ill.Rev.Stats.
Chap. 120, Sections 14-1401 and 7-702) effective August 10, 1981
for a Period Not to Exceed 150 Days

The Internal Revenue Service recently issued regulations (IRS Reg. s 37.3402-1, now temporary, soon to be permanent) requiring employers to submit exemption certificates that meet certain standards of implausibility to the IRS for scrutiny. Employers are notified to disregard those exemption certificates that do not withstand that scrutiny. Since employees more often than not file Illinois withholding exemptions certificates that match their federal withholding exemption certificates, it is appropriate that the Illinois Department of Revenue provide guidelines to employers on certificates have been rendered ineffective by IRS notification. Those guidelines are set forth in the Emergency Amendment to Income Tax Reg. Section 702-2. Consistent with the Emergency Amendment, Form IL-W-4 will be revised, and the revised version will be made available to the public in the near future. Also included in the Emergency Amendment are provisions designed to aid employees in determining exactly what their maximum Illinois withholding exemption is at any time, thus reducing the possibility of employees mistakenly claiming greater exemptions than they are entitled to. The new regulations will be published in the Illinois Register on or about August 21, 1981. Copies may be obtained from the Rules Division of the Secretary of State's Office.

The following is a detailed synopsis of the Amendment. However, employers who read the synopsis and think that they have a problem governed by the Amendment should consult the amended version of Reg. Section 702-2 itself.

SEC. 702-2(a) Total exemption from Illinois income tax withholding for the current taxable year can be claimed ONLY if the individual has claimed total exemption from federal income tax withholding for the same period by furnishing his employer with a federal exemption certificate stating that 1) he incurred no federal income tax liability for his preceding taxable year and 2) he anticipates that he will not incur a federal income tax liability for his current taxable year. An employer receiving an Illinois withholding exemption certificate claiming total exemption from an employee who has not claimed total exemption for federal withholding will regard the Illinois certificate as invalid and will withhold Illinois income tax at the full rate from the total amount of compensation paid to the employee until a valid certificate is furnished by the employee.

SEC. 702-2(b) Any alteration of, or unauthorized addition to, a withholding exemption certificate shall cause the certificate to be invalid.

SEC. 702-2(c)(1)(B) Whenever an employer received notification from the Internal Revenue Service that a particular employee's federal withholding exemption certificate is defective, the employer should thereafter withhold Illinois income tax from the employee on the basis of the maximum number of exemptions specified in the IRS notification or on the basis of the number of exemptions claimed by the employee on his Illinois certificate, whichever is less.

SEC. 702-2(c)(1)(B)(3)(A) and (B) If, because of changed circumstances, an employee becomes entitled to claim total exemption for federal income tax withholding for the remainder of the calendar year and does in fact file a federal certificate claiming such total exemption, he may also simultaneously claim total exemption from Illinois withholding exemption certificate. Conversely, if because of changed circumstances, an employee is no longer entitled to claim total exemption from federal income tax withholding for the current calendar year and consequently filed a new federal income tax withholding exemption certificate specifying a number of exemptions on which federal income tax withholding should be based, he must simultaneously furnish his employer with a new Illinois certificate specifying the number of withholding exemptions on which Illinois withholding should be based, unless such certificate was already on file with the employer prior to the filing of the new federal certificate.

SEC. 702-2(d)(2) If an employee has a federal withholding exemption certificate in effect claiming total exemption and, under federal regulations, furnishes the employer with a new certificate stating a specific number of exemptions on which federal withholding is to be based for his taxable income beginning with the following January 1, he must simultaneously furnish his employer with an Illinois certificate that is consistent with the new federal certificate under Section 702 of the Act, unless such certificate was already on file with the employer prior to the filing of the new federal certificate.

SEC. 702-2(f) Status determination dates have been changed to include January 1, May 1, July 1 and October 1 of each year.

SEC. 702-2(g)(1) An Illinois withholding exemption certificate claiming total exemption remains in effect for the same period as the federal withholding exemption certificate on which it is based.

SEC. 702-2(g)(2) A certificate claiming a specific number of exemptions, in effect pursuant to these regulations shall continue in effect until another withholding exemption certificate takes effect.

SEC. 702-2(h)(1) and (2) A photostatic copy of any Illinois withholding exemption certificate described below must be referred by the employer to the Taxpayer Correspondence Section of the Department

on or before the due date of the next quarterly return (IL-941).
Certificates must be referred if

- 1) employee claims in excess of nine (9) exemptions OR
- 2) the number claimed is more than the number of withholding exemptions claimed on a simultaneously effective federal

certificate, OR

- 3) the employer has no obligation to submit a simultaneously effective federal certificate to the Internal Revenue Service under IRS Reg. s 37.3402-1.

Exemption certificates that are referred to the Department will remain in effect unless and until the employer receives written notification from the Department that Illinois income tax should be withheld from the employee other than in accordance with the employee's withholding exemption certificate.

SEC. 702-2(h)(3) Upon notification by the Department that a particular employee's certificate is ineffective, the employer shall furnish the employee with a copy of the written notice and shall withhold amounts from the employee on the basis of the specific number of exemptions stated in the notice. If the employee files a new certificate, the employer shall withhold on the basis of that certificate ONLY if it does not claim exemptions in excess of the specified number assigned by the Department. A new certificate claiming exemptions in excess of the specified number will be disregarded by the employer UNLESS the employee justifies or supports the new certificate in a separate written statement attached to it outlining the changes in circumstances that warrant additional exemptions. In that case, the employer will continue to withhold in accordance with the instructions in the Department's notice, but will promptly forward copies of the new exemption certificate and written statement to the Taxpayer Correspondence Section for review. After that review, the Department MAY issue a second notice to the employer advising the employer to withhold on the basis of the new certificate; however, unless and until that second notice is issued, the employer should withhold on the basis of the first notice issued by the Department.

REMAINDER NOTIFICATION FOR FILING WITHHOLDING TAXES ON A QUARTER/MONTHLY BASIS

Since October 1, 1976, employers, in certain circumstances, have been required to remit to the Department on a quarter-monthly basis Illinois income taxes withheld from employees. Any employer who has withheld, but not remitted, \$500 or more at the end of a quarter-monthly period is so required to remit the entire amount with Form IL-501 to the Illinois Department of Revenue within three (3) banking days after the end of the quarter-monthly period. The quarter-monthly periods end on the 7th, 15th, 22nd and last day of each month.

EXAMPLE: On the seventh day of the month, Employer A has \$400 in Illinois income tax withholding which he has not remitted to the Department. On the tenth day of the month, Employer A pays his employees, withholding another \$200 in income tax from them. Employer A has no additional payroll prior to the 16th of the month. Employer A should file Form IL-501, remitting \$600 to the Department within three (3) banking days after the 15th day of the month.

Employers withholding Illinois income tax from their employees are also required to file quarterly Illinois withholding tax returns on Form IL-941. IL-941's are due by the last day of the month following

the end of each quarter, that is by April 30, July 31, October 31, and January 31.

If the supply of pre-printed IL-501 forms that you are currently receiving from the Illinois Department of Revenue is inadequate for the number of filings that you are required to make, please request additional forms by writing The Central Registration Section, P.O. Box 4054, Springfield, Illinois 62708, or by calling the Department at 1-800-252-8972.

J. Thomas Johnson
Director of Revenue

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